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14 Attorneys for Defendant

15 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

16 IN AND FOR THE COUNTY OF YAVAPAI

17 STATE OF ARIZONA,

18 Plaintiff,

19 vs.

20 STEVEN CARROLL DEMOCKER,

21 Defendant.

) No. P1300CR20081339

) Div. 6

) MOTION IN LIMINE RE
) HEARSAY EVIDENCE

) (Oral Argument Requested)

22 Defendant Steven DeMocker hereby moves in limine to preclude the admission of
23 hearsay testimony and evidence in this case. This motion is supported by the following
24 Memorandum of Points and Authorities.
25

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27
28

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2010 APR -9 PM 3: 04 ✓

JEANNE HICKS, CLERK

BY: S. KELBAUGH

1 The State has disclosed thousands of documents, including emails,
2 handwritten diaries and journals, notes, text messages, cards and letters authored
3 by the victim in this case, Carol Kennedy. All of these documents are hearsay and
4 are not subject to any of the enumerated exceptions in Rule 804, Rules of
5 Evidence. They are all out-of-court statements made by an unavailable declarant,
6 offered for the truth of the matters asserted therein. To the extent that the State
7 would seek to admit them at trial, they must be precluded. Admitting such hearsay
8 would violate Mr. DeMocker's rights under the Confrontation clause of the Sixth
9 Amendment. *See Crawford v. Washington*, 541 U.S. 36, 124 S.Ct. 1354, 158
10 L.Ed.2d 177 (2004).

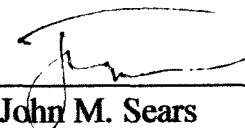
11 Similarly, the State has disclosed materials containing accounts of
12 statements allegedly made by Ms Kennedy to others, including lawyers,
13 accountants, friends and family members. These too are inadmissible hearsay and
14 must be precluded as well.

15
16 **Conclusion**

17 Defendant Steven DeMocker, by and through counsel, hereby requests that this
18 Court prohibit the State from offering hearsay testimony or evidence in this case.

19 DATED this 9th day of April, 2010.

20 By:



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Attorneys for Defendant

ORIGINAL of the foregoing filed
this 9th day of April, 2010, with:

Jeanne Hicks
Clerk of the Court
Yavapai County Superior Court
120 S. Cortez
Prescott, AZ 86303

COPIES of the foregoing hand delivered this
this 9th day of April, 2010, to:

The Hon. Thomas B. Lindberg
Judge of the Superior Court
Division Six
120 S. Cortez
Prescott, AZ 86303

Joseph C. Butner, Esq.
Prescott Courthouse basket

